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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons, Mr. Chaloka Beyani

Addendum

Mission to South-Sudan: comments by the State on the report of the Special Rapporteur*

* Reproduced in the annex as received.

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Annex

Comments on the Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons (IDPs) in South Sudan from 6 to 15 November 2013.

1. The Government of South Sudan expresses its appreciation to the visit of the Special Rapporteur, Dr Chaloka Beyani in order to acquaint himself with the conditions of the internally displaced persons in South Sudan. During his visit he has gathered a lot of information on the situation of IDPs which constitute the basis of rending his Report. The Report reflects his findings and observations taking into consideration the Guiding Principles on Internal Displacement which seek to protect all internally displaced persons in internal conflict situations, natural disasters and other situations of forced displacement. These Principles are consistent with international human rights law and international humanitarian law and other international standards relevant to the protection and assistance of internally displaced persons.

2. The Government appreciates the Special Rapporteur's Report which is designed to address the challenges the IDPs are facing in the Republic of South Sudan due to a number of factors. The Government is also appreciative of the recommendations of the Special Rapporteur on issues relating to improving the conditions of IDPs and supporting the institutional capacity building in collaboration with other stakeholders. However, the Report contains quite a number of issues of concern which deserve clarifications. In order to clarify the position of the Government, the Government has made the following comments on the preceding paragraphs of the Report.

3. Part II B Paragraph 11

In paragraph 11 of the Report, the Special Rapporteur stated that the dismissal of the entire cabinet in July 2013 led to political instability which resulted in endemic violent conflict that broke within the SPLA in December 2013.

Comment

It is normal for any Government to dissolve or reshuffle its entire cabinet and this does not amount to political instability. The Transitional Constitution of the Republic of South Sudan, 2011 empowers the President of the Republic of South Sudan to appoint, reshuffle, dissolve and re-appoint the cabinet. Moreover, the dissolution of the last cabinet was based on demand by the people for a lean Government and also supported by the international community. Therefore, it is the failed coup attempt by Dr Riak Machar that led to this current political instability.

4. Part II B Paragraph 13

In paragraph 13 of the Report, the Special Rapporteur stated that while South Sudan is a signatory to the major UN human rights treaties as well as the African Charter on Human and Peoples' Rights 1985, ratification and implementation of these instruments are vital to contribute to the stability of the country and the well-being of the South Sudanese people.

Comment

The Government is committed to protection of fundamental human rights enshrined in all major international and regional human rights instruments. All these major international human rights treaties have been approved by the Council of Ministers and submitted to the National Legislative Assembly for ratification. Others are before the relevant Parliamentary

Specialised Committees. The following have been ratified by the National Legislative Assembly:

(a) The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984;

(b) The Convention on the Rights of the Child 1989;

(c) The African Charter on Human and People's Rights was adopted in 1981. It entered into force in 1986 and not in 1985 as indicated in the Report;

(d) The Convention Governing the Specific Aspects of Refugee Problems in Africa 1969

5. Part III A Paragraph 22

In paragraph 22, the Special Rapporteur stated that many people in Pibor have been internally displaced as result of the conflict between David Yau Yau rebel group.

Comment

The Government of the Republic South Sudan has lately signed a peace agreement with David Yau Yau's group. Hence, there is no longer any conflict between the SPLA and this group. As such many people have returned to their respective areas.

6. Part III A Paragraph 23

In Paragraph 23 of the Report, it is stated that the armed conflict that unfolded in December 2013 has become increasingly entrenched along ethnic lines. It is also stated in the Report that the return of the IDPs within the UN premises is not possible due the prevailing security situation and especially young men are reluctant to leave due to fear of being targeted.

Comment

It is worth noting that the SPLA comprises all ethnic groups who are currently defending the country from the rebellion. The conflict does not have an ethnic dimension.

As to the issue of the IDPs, who are believed to be hesitant to vacate the UNMISS compounds citing security concerns, it should be noted that quite a good number of IDPs have left UNMISS compounds. Many have returned to their homes and to work in Juba and other States and there are no cases of them being targeted by the Government or any group.

7. Part III A Paragraph 24

In paragraph 24 of the Report, it is stated that armed forces and Government officials attempted to force their entry into UN protected areas for IDPs in Bor and there is a duty on the part of the government to refrain from such acts. It is also stated that there is a significant concern about the recruitment of children into the military.

Comment

The Government honours its obligations under the Status of Forces Agreement (SOFA)and is conscious of the fact that any such forced attempt of entry into UNMISS compound constitutes a violation of the Agreement. To clarify the situation, the Government had wanted to talk to UNMISS staff about the issue of weapons sneaked into its compound in Bor by some rebels. The Government had kindly requested UMNISS to handover the weapons and stated clearly that it had nothing to do with the rebels who sought refuge in UNMISS compound as they are under UNMISS protection.

As to the issue of recruitment of children, such recruitment is prohibited under the constitution and other applicable laws in force in the Republic of South Sudan. The

Transitional Constitution of the Republic of South Sudan, 2011 prohibits recruitment of children under the age of 18. There are also other statutory laws which prohibit such recruitment in particular the SPLA Act 2009 and the Child Act 2008. The Republic of South Sudan has ratified the Convention on the Rights of the Child on 20 December 2013 and has a duty to ensure that Children under the age of 18 are not recruited into the Army. The Child Act gives effect to the provisions of the Convention.

8. Part III A Paragraph 25

In paragraph 25 of the Report, it is stated that the IDPs within UNMISS protected areas face a congested and overcrowded situation prone to politicised ethnic tensions and health hazards.

Comment

The congestion of IDPs in UNMISS compounds is no longer there anymore. As stated earlier, many of the IDPs have returned to their homes and to work. As for some still living in UNMISS compounds, it has been agreed between the Special Representative of the Secretary-General, Hilde Johnson and the Minister of Cabinet Affairs, Dr Martin Elia Lomoro to open new houses for them.

9. Part III Paragraph 45 (c)

In paragraph 45 (c) of the report, it is stated that the Government of South Sudan including its armed and police forces and all other parties to the conflict must refrain from directly or indirectly inciting communities against each other for political or other reasons.

Comment

Neither the Government of South Sudan nor any of its organised forces do directly or indirectly incite communities against each other for political or other reasons.